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**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

OLLIE OTIS REAVES,	:	
Petitioner	:	No. 1:19-CV-0138
	:	
v.	:	(Rambo, J.)
	:	
DAVID EBBERT, Warden,	:	
USP Lewisburg,	:	
Respondent	:	(Electronically Filed)

**RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS –
SUGGESTION OF MOOTNESS**

INTRODUCTION

Respondent, David Ebbert, Warden of USP Lewisburg, opposes the Petition for a Writ of Habeas Corpus filed by Ollie Otis Reaves, a federal inmate currently confined at the United States Penitentiary in Lewisburg, Pennsylvania (USP Lewisburg). Respondent respectfully requests that Reaves' habeas petition be dismissed as moot because Reaves has received the relief he seeks in this petition.

PROCEDURAL HISTORY

In 2009, Petitioner Ollie Reaves was sentenced to a mandatory life sentence subsequent to a jury verdict finding Reaves guilty of possession with the intent to distribute more than 50 grams of crack cocaine. See United States v. Reaves, No. 1:07-cr-00104-03, Doc. 357.

On or about January 24, 2019, Reaves filed the instant Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 requesting that the Court vacate his life sentence and resentence him. Doc. 1 (Pet.). On February 25, 2019, Respondent was ordered to respond to the allegations of the petition within twenty-one (21) days. Doc. 6, Order. At Respondent's request, the deadline was extended until April 17, 2019. Docs. 8, 9.

On April 5, 2019, Reaves filed a Motion for Resentencing Hearing under Section 404 of the First Step Act. See United States v. Reaves, No. 1:07-cr-00104-03 (M.D. Pa.), Doc. 473.

On April 17, 2019, Respondent filed a Motion to Stay Briefing Schedule in light of Reaves' motion for resentencing filed in the criminal case pending before Judge Brann. (Doc. 10.) The motion was granted

on April 25, 2019. (Doc. 11.)

On June 14, 2019, Judge Brann granted Reaves' motion for resentencing and scheduled Reaves' sentencing hearing for August 5, 2019. See United States v. Reaves, No. 1:07-cr-00104 (M.D. Pa.), Doc. 483.

ARGUMENT

In Accordance with the First Step Act, Reaves is scheduled to be resentenced on August 5, 2019, and therefore the Habeas Petition should be dismissed as moot.

The jurisdiction of federal courts extends only to justiciable cases and controversies. For a matter to be justiciable, it "must be definite and concrete, touching . . . adverse legal interests . . . [and] admitting of a specific relief through a decree of a conclusive character" Aetna Life Insurance Co. v. Haworth, 300 U.S. 227, 240-41 (1937).

Furthermore, a controversy must generally remain real and substantial at all stages of the litigation, "and not simply at the date the action is initiated." Roe v. Wade, 410 U.S. 113, 125 (1973). See also Spencer v. Kemna, 523 U.S. 1, 7 (1998). "Consequently, a case should be dismissed as moot where 'developments occur during the course of

adjudication that eliminate a plaintiff's personal stake in the outcome of a suit or prevent a court from being able to grant the requested relief.”

See Randall v. Martinez, No. 4: CV-07-2151, slip op. at 1, 2008 WL 275721 (M.D. Pa., Jan. 30, 2008) (Jones, J.) (Copy attached) (quoting Morris v. Nationalist Movement, 273 F.3d 427, 533 (3d Cir. 2001).

Accordingly, the petition should be dismissed as moot “because no legal injury remains for this Court to remedy.” Randall, slip op. at 1.

In the instant case, Reaves has received the relief he seeks, i.e., resentencing; therefore, the habeas petition is moot and should be dismissed.

CONCLUSION

For the reasons set forth above, Reaves' habeas petition seeking resentencing should be dismissed.

Respectfully submitted,

DAVID J. FREED
United States Attorney

/s/ Joseph J. Terz
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Date: July 3, 2019

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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers. That on July 3, 2019, she served a copy of the attached

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by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Williamsport, Pennsylvania.

Addressee:
Ollie Otis Reaves,
Reg. No. 14139-067
U.S. Penitentiary
P.O. Box 1000
Lewisburg, PA 17837

s/ Rebecca A. Hovenstine_____
Rebecca A. Hovenstine, Contractor
Senior Litigation Paralegal